

SENATE BILL 2169

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 5, to enact the
"County Personnel Management System Act of 1996".

WHEREAS, recent changes in federal laws governing personnel matters have imposed increasingly stringent requirements on county governments with regard to personnel issues; and

WHEREAS, the respective rights and duties of county government employers and employees have become increasingly regulated by both state and federal laws; and

WHEREAS, the number of complaints and lawsuits initiated by employees based upon these personnel laws and regulations has increased substantially in recent years; and

WHEREAS, county governments in their role as employers are increasingly at risk of civil penalties and judgments which could prove devastating to the county's financial status; and

WHEREAS, under many current federal personnel laws a county government is treated as a single employer for compliance and liability purposes, while current state laws do not grant counties the requisite authority to act as a single employer in personnel matters; and

WHEREAS, in order to comply with current personnel laws and regulations, county governments must be authorized to deal with personnel matters on a county-wide basis; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 5, is amended by adding Sections 2 through 11 as a new chapter.

SECTION 2. This act shall be known and may be cited as "The County Personnel Management System Act of 1996".

SECTION 3. This chapter shall be local in effect and shall become effective in a particular county upon a two-thirds (2/3) majority vote of the county legislative body adopting this chapter.

SECTION 4. As used in this act, unless the context requires otherwise:

(1) "Board" or "personnel board" means the county personnel board established pursuant to this chapter;

(2) "County employee" means all employees (as defined under the federal Fair Labor Standards Act, as amended) of the county, except employees of the county board of education;

(3) "County officials" means the trustee, register of deeds, county clerk, clerks of court, sheriff, assessor of property, and highway superintendent in the county; and

(4) "Director" means the personnel director employed by the board.

SECTION 5.

(a) There is hereby created a county personnel board composed of five (5) members selected as follows:

(1) One (1) member of the board (the "county legislative body representative") shall be selected by the county legislative body by majority vote. The county legislative body representative shall be a member of the county legislative body.

(2) Three (3) members of the board (the "county official representatives") shall be selected by the county officials as defined herein. The county officials shall select their representatives by majority vote, with each official having one (1) vote, at a meeting of these officials called by the county executive for this purpose. The county official representatives shall be county officials.

(3) One (1) member of the board shall be the county executive.

(b) The board shall select a chairperson from among its members each year.

(c) The board shall meet from time to time as it may deem necessary for the discharge of its duties as provided herein, and upon the call of the chairperson.

(d) The county's ADA Coordinator shall serve in an advisory capacity to the board in matters dealing with the employment provisions of the federal Americans with Disabilities Act.

SECTION 6.

(a) Board members other than the county executive shall serve two (2) year terms, with the terms to be staggered so that terms of the county legislative body representative and one (1) county official representative will expire at the same time, and the terms of the remaining two (2) county official representatives will expire the following year. For the first-time board members are selected, in order to establish staggered terms, the county legislative body representative shall serve an initial term of one (1) year, and the county officials shall select one (1) representative to serve an initial term of one (1) year.

(b) If a board member ceases to be a county official or a member of the county legislative body, as the case may be, that member's seat on the board is vacant.

(c) When a vacancy occurs, the seat shall be filled in the same manner that the seat had originally been filled, and the successor shall serve the remainder of the unexpired term.

SECTION 7.

(a) The personnel board shall promulgate policies, procedures and regulations for implementing a sound personnel management system for the county in accordance with the provisions of this chapter. All policies, procedures and regulations, and amendments thereto, shall be presented to the county legislative body for approval, and shall not become effective until such approval has been received. Upon approval by the county legislative body, such policies, procedures, regulations and amendments shall be effective for all county employees as defined herein.

(b) The powers of the board shall include:

(1) Establishing vacation or annual leave, sick leave and family leave policies;

(2) Establishing guidelines for advertisement of county positions to be filled;

(3) Establishing grievance procedures in accordance with applicable state and/or federal laws;

(4) Establishing a system for determining compliance with the overtime provisions of the federal wage and hour laws for county employees;

(5) Establishing a recordkeeping system for determining leave balances for vacation or annual leave, sick leave and family leave;

(6) Acting in an advisory capacity on personnel matters upon request of county officials and department heads;

(7) Establishing drug and alcohol testing policies and procedures where required by federal law; and

(8) Exercising such other authority as may be necessary to bring the county into compliance with applicable state and federal laws governing personnel matters and which is not in conflict with the provisions of this chapter.

(c) The powers of the board shall be limited as follows:

(1) Elected or appointed officials, boards and department heads shall retain their present authority to make decisions which are not in conflict with the provisions of this chapter concerning hiring, promotions, transfers, layoffs, discipline and termination of the employees of their respective offices.

(2) The board shall have no authority to establish systems of seniority, tenure, or classified service.

(3) The board shall have no authority to grant to employees any right to continued employment by the county except as may be required by applicable state or federal law or as specifically provided in this chapter.

(4) The board shall have no authority to establish promotion or entrance tests for county employment, or otherwise to establish qualifications for employment.

(5) The board shall have no authority to establish compensation schedules for county employees.

(6) The board shall have no authority to establish the hours or schedule of work for any employee, except as may be required to comply with the overtime provisions of the federal wage and hour laws.

SECTION 8.

(a) The personnel board may, but is not required to, employ a personnel director. The director shall serve at the pleasure of the board. The director shall be considered for all purposes to be an employee of the county. The compensation of the director shall be established by the board subject to the approval of the county legislative body.

(b) The board may appoint some existing officer, department head or employee of the county as personnel director, and notwithstanding any other law to the contrary, such person may receive compensation for performing the additional duties of personnel director.

(c) The duties of the personnel director shall be to implement the policies, procedures and regulations adopted by the personnel board pursuant to this chapter.

SECTION 9.

(a) County employees shall be subject to termination from employment for failure to comply with the provisions of this chapter or the rules, regulations, policies and procedures promulgated by the board pursuant to this chapter. Willful failure or refusal of county officers to comply with the provisions of this chapter or the rules, regulations,

policies and procedures promulgated by the board pursuant to this chapter shall constitute misconduct in office.

(b) In order to enforce the provisions of this chapter, the county executive is authorized to retain the county attorney, or an attorney hired pursuant to § 5-6-112, to seek mandamus to compel compliance as provided in § 5-1-107.

SECTION 10. The board is authorized and directed to retain an attorney to advise the board in the carrying out of its responsibilities under this chapter. The board may, but is not required to, employ the county attorney in such capacity. The compensation of such attorney shall be established by the board subject to approval of the county legislative body.

SECTION 11. The provisions of this chapter shall supersede any conflicting provisions of any general laws or private acts which may be in effect at the time this chapter becomes effective in a county.

SECTION 12. This act shall take effect upon becoming a law, the public welfare requiring it.

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